

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RAYMOND G. KELLEY,

Plaintiff,

v.

Case No. 09-C-0096

**PETER ERICKSEN, SARAH COOPER,
WILLIAM SWIEKATOWSKI, DR. MALEAH CUMMINGS,
MARK ZIMONICK, and PSYCHIATRIST DR. MCQUEENY,**

Defendants,

DECISION AND ORDER

Plaintiff brings this pro se civil rights complaint under 42 U.S.C. § 1983, claiming that defendants violated his due process rights under the Fourteenth Amendment by failing give notice or a hearing before placing him in a behavior modification program and violated his Eighth Amendment rights through deliberate indifference to the unsanitary conditions of his confinement and to his serious mental health needs. The Western District of Wisconsin granted plaintiff's motion to proceed in forma pauperis, and subsequently transferred the case to this district for proper venue. Now before me are plaintiff's motions to appoint counsel, to stay proceedings until he obtains counsel, and for a phone conference to discuss the motions.

Plaintiff represents that he has been diagnosed with multiple serious mental illnesses, has been hospitalized for those illnesses and takes anti-psychotic medication. He also submits that he has been the recipient of special education services for his entire educational career. Further, as a segregation inmate, plaintiff has extremely limited access to the law library, which he struggles to use because the Columbia Correctional Institution

provides only computer access to segregation inmates and he is unable to use computers. Plaintiff represents that he has contacted eleven attorneys regarding representing him in this matter, to no avail. Thus far, he has received assistance from other inmates in researching, drafting and writing his pleadings in this case. He suggests that the issues in this case will require expert testimony and other resources not available to him.

I grant the motion to appoint counsel and thus deny the motion to stay and for a telephone conference as moot. Plaintiff has demonstrated attempts to obtain counsel on his own. See Pruitt v. Mote, 503 F.3d 647, 654 (7th Cir. 2007). Given plaintiff's mental health and the complexity of this case, I do not believe that plaintiff is competent to try the case himself. See Id. at 654-655. Given his limitations, without counsel plaintiff essentially has no method of conducting discovery, researching his claims, or procuring expert testimony. The presence of counsel will likely make a difference in the outcome of the case. As a result, I will grant plaintiff's motion to appoint counsel. I have recruited pro bono counsel to represent plaintiff in this matter.

IT IS THEREFORE ORDERED that plaintiff's motion to appoint counsel (Docket #39) is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff's motion to stay proceedings (Docket #41) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that the Scheduling Order, dated February 5, 2009 (Docket #36) is **VACATED**.

IT IS FURTHER ORDERED that plaintiff's motion for order (Docket #44) is **DENIED AS MOOT**.

IT IS ALSO REQUESTED that Attorney Donald A. Daugherty, Attorney Jennifer H. Jin and Attorney Kristina C. Lemanski will represent plaintiff in this action, subject to plaintiff agreeing to the Regulations Governing the Prepayment and Reimbursement of Expenses in Pro Bono Cases From the District Court Pro Bono Fund. A copy of these regulations are attached to this order. Pursuant to Paragraph A.1, the appointment of the attorneys is contingent on plaintiff signing and returning the enclosed forms expressing his agreement to be bound by the Regulations.

IT IS FURTHER ORDERED that copies of this order be sent to Attorney Donald A. Daugherty, Attorney Jennifer H. Jin and Attorney Kristina C. Lemanski, Whyte Hirschboeck Dudek S.C., 555 East Wells Street, Suite 1900, Milwaukee, WI 53202-3819, and Corey F. Finkelmeyer, Assistant Attorney General, Wisconsin Department of Justice, P.O. Box 7857, Madison, WI 53707-7857.

Dated at Milwaukee, Wisconsin, this 19 day of January, 2010.

/s _____
LYNN ADELMAN
District Judge